

ESTTA Tracking number: **ESTTA775399**

Filing date: **10/07/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Craig Whitney
Granted to Date of previous extension	10/12/2016
Address	234 Mt. Douglas Close SE Calgary, T2Z 3R9 CANADA
Attorney information	Kevin J. Collette Ryan, Swanson & Cleveland, PLLC 1201 Third Avenue Suite 3400 Seattle, WA 98101 UNITED STATES collette@ryanlaw.com, sasaki@ryanlaw.com, henderson@ryanlaw.com

Applicant Information

Application No	86878404	Publication date	06/14/2016
Opposition Filing Date	10/07/2016	Opposition Period Ends	10/12/2016
Applicant	Precision Piping Products, LLC Suite 200 Cypress, TX 77429 UNITED STATES		

Goods/Services Affected by Opposition


Class 006. First Use: 2015/04/22 First Use In Commerce: 2015/09/15
All goods and services in the class are opposed, namely: Metal overlays that protect the gasket surface area of a raised face flange and ring type joint flange against mechanical damage as well as the interior of pipe spools and vessels during shipping, transport and storage

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	87075314	Application Date	06/17/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FLANGE ARMOUR		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 017. First use: First Use: 2014/08/04 First Use In Commerce: 2014/08/04 Plastic protective caps for industrial pipes and industrial valves; plastic protective inserts for industrial pipes and industrial valves; high visibility safety caps for industrial pipes and industrial valves

Attachments	87075314#TMSN.png(bytes) Notice of Opposition final.PDF(201336 bytes)
-------------	-----------------------------------------------------------------------------

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Kevin Collette/
Name	Kevin J. Collette
Date	10/07/2016

1
2 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
3 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

4 In the matter of trademark application Serial No.: 86878404
5 For the Mark: flangeARMOR
6 Published in the Official Gazette on: 06/14/2016

7 Craig Whitney

8 Opposer,

Opposition No.

9 v.

10 Precision Piping Products, LLC,

11 Applicant.

12 **NOTICE OF OPPOSITION**

13 1. Opposer, Craig Whitney ("Opposer"), is an individual who applied for
14 registration for his U.S. Flange Armour®¹ mark on June 17, 2016, application number 87075314.

15 2. Applicant, Precision Piping Products, LLC ("Applicant"), is a Texas limited
16 liability company with its principal place of business in Cypress, Texas.

17 3. Opposer designed, developed, produces and sells advanced technology molded
18 plastic covers, using the Flange Armour® mark, used to protect flanges from damage during
19 equipment and spool fabrication, truck loading, and transport to facility sites. Opposer began
20 developing his unique 2014 invention, made with lightweight, reusable, recyclable
21 polypropylene #5, to replace the archaic designs that had been used before, including cardboard,
22 corrugated board, or plywood that had to be attached to the flange using bolts or Zip ties.

23 4. When Opposer began showing companies his new technology under the Flange
24 Armour® mark, he had immediate and substantial interest because the product was far superior

25 _____
26 ¹ Flange Armour® is a trademark filed in Canada on November 3, 2014 and registered on
November 17, 2015 under Registration No. TMA920470.



1 to anything on the market at the time. His new technology saved labor time and improved
2 corporate economics because the Flange Armour® product was easier and faster to put on and
3 take off and provided predictable integrity protection for the flanges covered. Companies can
4 save significant money avoiding flange refacing costs due to damage during fabrication and
5 transportation. Customers believe Opposer's Flange Armour® product is far superior, and the
6 only viable protection, to anything else in the market, including Applicant's products.

7 5. In mid-2014, Opposer developed the name Flange Armour® and a logo. The
8 website for Flange Armour®, www.flangearmour.com, went live shortly thereafter. Opposer
9 has continuously owned, maintained and used this website in commerce since mid-2014.

10 6. Since mid-2014, Opposer has continually used the Flange Armour® mark,
11 which has become well known in the world and U.S. marketplace through marketing materials,
12 sales presentations, production, and offers for sale to U.S. and worldwide customers. A simple
13 browser search in the U.S. or Canada in 2014 or later would show the Flange Armour® website
14 and information.

15 7. Starting in 2014, Opposer met with companies across the U.S., including
16 Houston, Texas, to show the Flange Armour® product and solicit sales. One of those sales
17 presentations led Opposer to enter into a letter of intent with a U.S. company at least as early
18 as November 6, 2014.

19 8. On February 6, 2015, Opposer applied for U.S. (with the same priority date for
20 Canada) patents on the Flange Armour® product design under U.S. Application No. 62/113,095
21 and Canada Application 2,910,782. The design drawings and pictures submitted to the patent
22 offices have the name Flange Armour® on them.

23 9. Applicant's product is a laminated cardboard flange protector that requires bolts
24 or Zip ties and is the same minimal protection that has been in use for 30 years. The subject
25 application for flangeARMOR is confusingly similar in sound and appearance to Opposer's
26 name, is used on generic corrugated material, and used only after Opposer had established his

1 brand and reputation. The Opposer has a real interest in these proceedings and a reasonable
2 basis for his belief of damage.


3 10. Opposer has priority to trademark because his use of the mark precedes the
4 application for registration and/or use of the mark by Applicant. Applicant did not apply for
5 registration until January 18, 2016, well after Opposer began offering and selling his product in
6 the U.S.

7 11. Applicant's application for registration and/or use of the flangeARMOR mark
8 creates a likelihood of consumer confusion because they are both used on flange protection
9 products in the same industries but Opposer's advanced technology covers more aspects of
10 flange protection. Applicant's mark so resembles a mark or trade name previously used in the
11 United States by Opposer and not abandoned, as to be likely, when used on or in connection
12 with Applicant's goods or services, to cause confusion or to cause mistake or to deceive. 15
13 U.S.C. §1052(d).

14 WHEREFORE, Opposer requests that said Application Serial Number 86878404 be
15 rejected, that no registration be issued thereon to Application, and that his opposition be
16 sustained in favor of Opposer.

17 DATED this 7th day of October, 2016.

18
19 By



Kristin Nealey Meier, WSBA #33562
Kevin J. Collette, WSBA #10998
Attorneys for Opposer Craig Whitney.

21
22 RYAN, SWANSON & CLEVELAND, PLLC
1201 Third Avenue, Suite 3400
Seattle, Washington 98101-3034
Telephone: (206) 464-4224
Facsimile: (206) 583-0359
kmeier@ryanlaw.com
collette@ryanlaw.com
23
24
25
26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that this Notice of Opposition is being submitted electronically to:

3 Trademark Trial and Appeal Board
4 United States Patent and Trademark Office
5 Electronic System for Trademark Trials and Appeals (ESTTA)
6 PO Box 1451
7 Alexandria, VA 22313-1451

8 and by email and Federal Express to:

9 Richard Schwartz
10 Whitaker Chalk
11 301 Commerce Street, Suite 3400
12 Fort Worth, TX 76102
13 rschwartz@whitakerchalk.com

14 DATED this 7th day of October, 2016.

15 By

16 

17 Kristin Nealey Meier, WSBA #33562
18 Kevin J. Collette, WSBA #10998
19
20
21
22
23
24
25
26

